

SENATE BILL 2439
By Burchett

AN ACT to amend Tennessee Code Annotated, Section 67-4-2008(a), relative to taxation of diversified investing funds.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 67-4-2008(a), is amended by adding the following language as a new, appropriately designated subdivision:

(11) Diversified investing funds; provided, that for purposes of this part a diversified investing fund is a limited liability company, limited liability partnership, or limited partnership that meets all of the following requirements:

(A) No less than ninety percent (90%) of the diversified investing fund's cost of its total assets consist of qualifying investment securities, deposits at banks or other financial institutions, and office space and equipment reasonably necessary to carry on its activities as a diversified investing fund;

(B) No less than ninety percent (90%) of its gross income consists of interest, dividends, and gains from the sale or exchange of qualifying investment securities; and

(C) Is formed and operated for the primary purpose of buying, holding, or selling qualifying investment securities, on its own behalf and not as a broker, and the capital of which fund is primarily derived from investments by entities or individuals which are neither related to nor affiliated with the fund.

For purposes of this subdivision the following provisions shall apply:

(i) "Affiliated" means entities that are part of an affiliated group as defined in 26 U.S.C. § 1504(a) and any applicable federal regulations thereto, as they may be amended from time to time;

(ii) "Primary" and "Primarily", over fifty percent (50%);

(iii) "Qualifying investment securities" include all of the following:

(a) Common stock, including preferred, or debt securities convertible into common stock, and preferred stock;

(b) Bonds, debentures, and other debt securities;

(c) Foreign and domestic currency deposits or equivalents and securities convertible into foreign securities;

(d) Mortgage or asset-backed securities secured by federal, state, or local governmental agencies;

(e) Repurchase agreements and loan participations;

(f) Foreign currency exchange contracts and forward and futures contracts on foreign currencies;

(g) Stock and bond index securities and futures contracts, and other similar financial securities and futures contracts on those securities;

(h) Options for the purchase or sale of any of the securities, currencies, contracts, or financial instruments described in subdivisions (a) to (g), inclusive;

(i) Warrants to purchase stock or an ownership interest in an entity;

(j) An ownership interest in a limited liability company, limited liability partnership, or limited partnership; and

(k) An ownership interest in a general partnership that would otherwise qualify as a diversified investing partnership under this subdivision were it not for its legal status as a general partnership; and

(iv) "Related" means entities or individuals that are related as determined by 26 U.S.C. § 267(b) and (f) and any federal regulations applicable thereto, as they may be amended from time to time.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring
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